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SH2467505 / FO2524927

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Los Angeles County Sheriff's Department
Supervisor's Report on Use of Force

Incident Information

URN: 018 - 14293 - 1410 - 058	Date: 11/01/18	Time: 0322	
Location: [redacted]	City or Station: Industry		
Bureau/Station/Facility: East Patrol Division / Industry Station	Admin. Investigation: ○ YES ◉ NO		
Type of Force: Deputy Involved Shooting,Personal Weapons			
Incident Category: ○1 ○2 ◉3	Deputy Injury: ◉ YES ○ NO	Suspect Injury ◉ YES ○ NO	
☐ Call	☒ Observation	☐ Detail	☒ Foot Pursuit ☐ Vehicle Pursuit
IAB Notified: ◉YES ○ NO	Person Notified: Burse	Emp: [redacted]	IAB Roll Out ◉ YES ○ NO

Involved Employee

E 1

Employee # [redacted]	Last Name McZeal	First Name Clarence	Middle I.	Rank DSG
Sex: ◉ M ○ F	Race: B	Height: 5'08"	Weight: 165	Age: [redacted]
Shift: ◉ EM ○ Day ○ PM	◉ Regular Shift ○ OT Shift ○ Off Duty			
Unit of Assignment: Industry Station	Work Assignment (Unit #, Module, etc.): Unit 141K2			
Individual Force Used: Firearm, Personal Weapons	○ Directed ○ Rescue ○ Medical Assist	Individual Category ○1 ○2 ◉3		
☒ Injured ☐ Treated ☐ Admitted	Facility:	Coroner Case #		

E_

Employee #	Last Name	First Name	Middle I.	Rank
Sex: ○ M ○ F	Race:	Height:	Weight:	Age:
Shift: ○ EM ○ Day ○ PM	○ Regular Shift ○ OT Shift ○ Off Duty			
Unit of Assignment:	Work Assignment (Unit #, Module, etc.):			
Individual Force Used:	○ Directed ○ Rescue ○ Medical Assist	Individual Category ○1 ○2 ○3		
☐ Injured ☐ Treated ☐ Admitted	Facility:	Coroner Case #		

E_

Employee #	Last Name	First Name	Middle I.	Rank
Sex: ○ M ○ F	Race:	Height:	Weight:	Age:
Shift: ○ EM ○ Day ○ PM	○ Regular Shift ○ OT Shift ○ Off Duty			
Unit of Assignment:	Work Assignment (Unit #, Module, etc.):			
Individual Force Used:	○ Directed ○ Rescue ○ Medical Assist	Individual Category ○1 ○2 ○3		
☐ Injured ☐ Treated ☐ Admitted	Facility:	Coroner Case #		

On Duty Supervisor ☐ Additional Involved Employees

Emp. #	Last Name	First Name	Middle I.	Rank	Present	Witness to Incident
[redacted]	Gomez	Samuel	J.	Sgt	YES ○ NO ◉	YES ○ NO ◉

Supervisor Completing Investigation

Emp. #	Last Name	First Name	Middle I.	Rank	Present	Witness to Incident
[redacted]	Rodriquez	Troy	W.	Sgt	YES ○ NO ◉	YES ○ NO ◉

Watch Commander / Supervising Lieutenant

Emp. #	Last Name	First Name	Middle I.	Rank
[redacted]	Smitson	Eric	C.	Lt

Watch Commander / Supervising Lieutenant's **Signature**: [signature] Date: 2-2-21

Copy Provided to Employee by: Emp #:

William E. Jaeger
Unit Commander **(Print Name)**

Unit Commander's **Signature**: [signature] Emp #: [redacted] Date: 2/3/21

DISCOVERY Use Only
FO#

☒ PPI REVIEW COMPLETED

Original: Discovery Unit
Copy: Unit Commander

Supervisor's Report on Use of Force
SUSPECT INFORMATION

0 1 8 - 1 4 2 9 3 - 1 4 1 0 - 0 5 8

Suspect Information

S 1

Last Name: Franco | First Name: Rashaad | Middle Name: Thomas | Armed? Select: Not Armed

AKA Last Name: | First Name: | Middle Name:

Sex: (●) Male ( ) Female | Race: B | Age: 30 | Height: 6'00" | Weight: 250 | D.O.B: 11/26/19 | Phone #1: ( ) H ( ) W ( ) C | Phone #2: ( ) H ( ) W ( ) C

Street Address: [redacted] | City: [redacted] | State & Zip Code: [redacted]

Booking #: 5466172 | Primary Charge Code: 245(C) | Secondary Charge Code: 236 | [redacted] Criminal History

Treated on Scene? (●) YES ( ) NO Name: Los Angeles County Fire Unit: Engine 87 Phone #: 626-336-2611

Hospital Admission? [X] Rec'd Treatment At: LAC+USC Medical Coroner Case #: Mental History [ ] User's guide provides direction on this entry

By: Charles MacIntyre Address: 2051 Marengo St, Los Angeles, CA 9003 Phone #: 323-409-1000

Under Influence: (●) YES ( ) NO Substance: CNS Stimulant 5150 a factor in force? ( ) YES (●) NO User's guide provides direction on this entry

Suspect Interview

Date: Time: [ ] Audiotape: [ ] Videotape: [ ] Photos of Injuries: [ ] ADMITS HEARING ANNOUNCEMENTS

Suspect Information

S__

Last Name: | First Name: | Middle Name: | Armed? Select:

AKA Last Name: | First Name: | Middle Name:

Sex: ( ) Male ( ) Female | Race: | Age: | Height: | D.O.B. | Weight: | Phone #1: ( ) H ( ) W ( ) C | Phone #2: ( ) H ( ) W ( ) C

Street Address: | City: | State & Zip Code:

Booking #: | Primary Charge Code: | Secondary Charge Code: | [ ] Criminal History

Treated on Scene? ( ) YES ( ) NO By: Unit: Phone #:

Hospital Admission? [ ] Rec'd Treatment At: Coroner Case #: Mental History [ ] User's guide provides direction on this entry

By: Address: Phone #:

Under Influence: ( ) YES ( ) NO Substance: 5150 a factor in force? ( ) YES ( ) NO User's guide provides direction on this entry

Suspect Interview

Date: Time: [ ] Audiotape: [ ] Videotape: [ ] Photos of Injuries: [ ] ADMITS HEARING ANNOUNCEMENTS

Suspect Information

S__

Last Name: | First Name: | Middle Name: | Armed? Select:

AKA Last Name: | First Name: | Middle Name:

Sex: ( ) Male ( ) Female | Race: | Age: | Height: | D.O.B. | Weight: | Phone #1: ( ) H ( ) W ( ) C | Phone #2: ( ) H ( ) W ( ) C

Street Address: | City: | State & Zip Code:

Booking #: | Primary Charge Code: | Secondary Charge Code: | [ ] Criminal History

Treated on Scene? ( ) YES ( ) NO By: Unit: Phone #:

Hospital Admission? [ ] Rec'd Treatment At: Coroner Case #: Mental History [ ] User's guide provides direction on this entry

By: Address: Phone #:

Under Influence: ( ) YES ( ) NO Substance: 5150 a factor in force? ( ) YES ( ) NO User's guide provides direction on this entry

Suspect Interview

Date: Time: [ ] Audiotape: [ ] Videotape: [ ] Photos of Injuries: [ ] ADMITS HEARING ANNOUNCEMENTS

[ ] **Additional Suspects Involved**

Supervisor's Report on Use of Force
EMPLOYEE / NON-EMPLOYEE INFORMATION

018 - 14293 - 1410 - 058

Employee Witnesses

Emp. #	Last Name	First Name	Middle Name
[redacted]	Barrera	Armando	

Unit of Assignment:	Work Assignment (Unit #, Module, etc.):	Shift:	
Industry	Unit 141K1	(●) EM ( ) Day ( ) PM	(●) Regular ( ) OT ( ) Off Duty

Emp. #	Last Name	First Name	Middle Name

Unit of Assignment:	Work Assignment (Unit #, Module, etc.):	Shift:	
		( ) EM ( ) Day ( ) PM	( ) Regular ( ) OT ( ) Off Duty

Emp. #	Last Name	First Name	Middle Name

Unit of Assignment:	Work Assignment (Unit #, Module, etc.):	Shift:	
		( ) EM ( ) Day ( ) PM	( ) Regular ( ) OT ( ) Off Duty

Non-Employee Witnesses

Last Name	First Name	Middle Name	Age	D.O.B.

Street Address	City	Zip Code	Phone #1	Phone #2

Last Name	First Name	Middle Name	Age	D.O.B.

Street Address	City	Zip Code	Phone #1	Phone #2

Last Name	First Name	Middle Name	Age	D.O.B.

Street Address	City	Zip Code	Phone #1	Phone #2

Last Name	First Name	Middle Name	Age	D.O.B.

Street Address	City	Zip Code	Phone #1	Phone #2

Last Name	First Name	Middle Name	Age	D.O.B.

Street Address	City	Zip Code	Phone #1	Phone #2

Last Name	First Name	Middle Name	Age	D.O.B.

Street Address	City	Zip Code	Phone #1	Phone #2

Last Name	First Name	Middle Name	Age	D.O.B.

Street Address	City	Zip Code	Phone #1	Phone #2

Last Name	First Name	Middle Name	Age	D.O.B.

Street Address	City	Zip Code	Phone #1	Phone #2

Last Name	First Name	Middle Name	Age	D.O.B.

Street Address	City	Zip Code	Phone #1	Phone #2

☐ **Additional Witness**

Supervisor's Report on Use of Force

0 1 8 - 1 4 2 9 3 - 1 4 1 0 - 0 5 8

Method

(AW) Arwen
(BC) Baton: (Control)
(BI) Baton: (Impact)
(BF) Bodily Fluids
(CN) Canine
(CR) Carotid Restraint
(CH) Choke Hold
(CT) Control Holds: (Control Techniques)
(TT) Control Holds: (Team Takedown)
(TD) Control Holds: (Takedown)
(CE) Chemical
(OC) Chemical Agents (OC Spray)
(TG) Chemical Agents (Tear Gas)
(EX) Explosives
(FH) Firearm (Handgun)
(FR) Firearm (Rifle)
(FS) Firearm (Shotgun)
(FO) Firearm (Other)
(FB) Flashbang
(FL) Flashlight
(OE) Other Weapon: Edged
(OV) Other Weapon: Vehicle
(OB) Other Weapon: Blunt Object
(OO) Other Weapon: Other
(PK) Personal Weapon: Feet/Leg: (Kick)
(PS) Personal Weapon: Feet/Leg: (Sweep)
(PH) Personal Weapon (Hand/Arm)
(PP) Personal Weapon (Push)
(PO) Personal Weapon (Other)
(RS) Resistance
(RO) Restraint Device (Other)
(RH) Restraint Device (Handcuffs)
(HB) Restraint Device: Hobble (Legs Only)
(TP) Restraint Device: Hobble (TARP)
(RE) Restraint Device: REACT Belt
(SP) Sap
(SH) Shield
(IR) Less Lethal Impact Round (other)
(SB) Sting Ball
(ST) Stun Bag
(TR) Taser
(UC) Uncooperative
(HR) High Risk

Type of Injury

(AB) Abrasion
(BR) Bruise
(BU) Burn
(CP) Complaint of Pain
(CO) Concussion
(DH) Death
(DI) Dislocation
(DB) Dog Bite
(FR) Fractures
(GS) Gunshot
(HB) Human Bite
(LC) Lacerations
(ND) Nerve Damage
(OD) Organ Damage
(PA) Paralysis
(PW) Puncture Wound
(SD) Soft Tissue Damage
(ST) Sprain/Twists
(UN) Unconscious
(RM) Refused Med Treatment
(NN) NONE

Body Part Involved

(AD) Abdomen
(AK) Ankle
(AR) Arm
(BK) Back
(BT) Buttocks
(CH) Chest
(EL) Elbow
(FA) Face
(FE) Feet
(FI) Fingers
(GE) Genitals
(GR) Groin
(HD) Hands
(HE) Head
(HI) Hip
(IN) Internal
(KN) Knees
(LE) Leg
(NK) Neck
(NO) Nose
(SH) Shoulder
(WR) Wrist

FORCE USED BY		FORCE USED AGAINST		Method (Code)	Type of Injury (Code)	Body Part (Code)
Name	E# or S#	Name	E# or S#			
Franco, Rashaad	S#1	McZeal, Clarence	E#1	PH	AB	AR
McZeal, Clarence	E#1	Franco, Rashaad	S#1	PH	NN	
McZeal, Clarence	E#1	Franco, Rashaad	S#1	FH	GS	AD



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

JACKIE LACEY • District Attorney
JOSEPH P. ESPOSITO • Chief Deputy District Attorney
VICTORIA L. ADAMS • Assistant District Attorney

JAMES GARRISON • Director

February 25, 2020

Captain Kent Wegener
Los Angeles County Sheriff's Department
Homicide Bureau
1 Cupania Circle
Monterey Park, California 91755

Re: Officer Involved Shooting of Rashaad Franco
J.S.I.D. File #18-0465
L.A.S.D. File #018-14293-1410-058

Dear Captain Wegener:

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the November 1, 2018, non-fatal shooting of Rashaad Franco by a member of the Los Angeles County Sheriff's Department. Our detailed analysis of this incident is contained in the attached memorandum.

Very truly yours,

JACKIE LACEY
District Attorney

SHANNON PRESBY
Head Deputy District Attorney
Justice System Integrity Division

c: Deputy Clarence McZeal, #[redacted]

Hall of Justice
211 West Temple Street, Suite 1200
Los Angeles, CA 90012
(213) 974-3888
Fax: (213) 626-5125
WEBSITE: http://da.lacounty.gov

MEMORANDUM

TO: CAPTAIN KENT WEGENER
Los Angeles County Sheriff's Department
Homicide Bureau
1 Cupania Circle
Monterey Park, California 91755

FROM: JUSTICE SYSTEM INTEGRITY DIVISION
Los Angeles County District Attorney's Office

SUBJECT: Officer Involved Shooting of Rashaad Franco
J.S.I.D. File #18-0465
L.A.S.D. File #018-14293-1410-058

DATE: February 25, 2020

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the November 1, 2018, non-fatal shooting of Rashaad Franco by Los Angeles County Sheriff's Department (LASD) Deputy Clarence McZeal. We have concluded that Deputy McZeal acted lawfully in self-defense.

The District Attorney's Command Center was notified of the shooting at approximately 4:09 a.m., on November 1, 2018. The District Attorney Response Team responded to the location. They were given a briefing regarding the circumstances surrounding the shooting and a walk-through of the scene by LASD Homicide Bureau Lieutenant Scott Hoglund.

The following analysis is based on investigative reports, audio recordings, firearm analysis reports, photographic and video evidence, and witness statements submitted to this office by LASD Homicide Bureau Detective Mark Perez. McZeal's two voluntary statements were considered as part of this analysis.[1]

FACTUAL ANALYSIS

On November 1, 2018, at approximately 3:22 a.m., LASD Deputy Clarence McZeal was assigned to Industry Station patrol. McZeal was in LASD uniform and was inside a [redacted] convenience store located on [redacted] in the City of Industry. From inside the [redacted] he observed a traffic collision outside between a black vehicle that had jumped the curb in front of the [redacted] and a parked truck in the store's parking lot. McZeal went outside to investigate and ascertain the condition of the parties involved. McZeal saw a woman (later identified as [redacted] exit the passenger door of the black vehicle screaming, and a man (later identified as Rashaad Franco) exit

[1] McZeal was interviewed briefly by LASD Deputy Daren Jaramillo, who responded to McZeal's assistance call, on November 1, 2018. McZeal was interviewed again that same day, at approximately 10:00 a.m., by LASD Homicide Investigators Mark Perez and Karen Shonka. Both statements were provided voluntarily.

the driver door of the black vehicle appearing agitated.[2] [redacted] ran toward the store's front entrance away from Franco.

McZeal approached Franco and talked to him in an attempt to deescalate the situation, which appeared to McZeal to be domestic violence-related. McZeal told Franco, "Hey, you know what, have a seat," and "Hey, why don't you go ahead and sit down." Franco did not comply with McZeal's requests. Franco was looking in the direction in which [redacted] ran, and did not appear to be paying any attention to McZeal. Franco began pacing back and forth agitatedly, breathing heavily, still speaking incoherently. McZeal stated, "It was like he was walking and then he would turn slightly and then he would walk back and toward her direction and then he would turn. Then he would walk back in her direction and it kind of seemed like he was trying to decide what to do. Whether he was gonna stay there, whether he was gonna run, whatever he was gonna do." In describing Franco's behavior, McZeal stated, "I believed is that he was on some type of a drug. I didn't exactly know what it was... it appeared like he was high."[3]

McZeal stood approximately five feet from Franco during their initial contact near the entrance to a car wash on the property situated to the side of the store. McZeal asked Franco if the car he just crashed belonged to him (Franco). Franco responded, "Is the patrol car yours?" McZeal, who was worried due to Franco's odd behavior, requested other deputies respond to assist him.[4] McZeal told Franco not to go toward [redacted], who had walked out of the store and was standing close to the store entrance. Franco walked toward McZeal's patrol car and stopped approximately two feet from the driver door. McZeal was worried that Franco was going to gain access to the shotgun located inside his vehicle.

McZeal stepped toward Franco, whereupon Franco lunged at McZeal, grabbing McZeal's shoulders with both hands.[5] McZeal yelled, "Stop!" Franco slid his left hand toward McZeal's waist. McZeal felt the pressure of Franco's left hand on his holstered service weapon. McZeal stated, "At that point, I'm thinking he's trying to kill me...[A]nd he's trying to remove my gun and if he gets my gun out that he's going to kill me." Franco placed his right hand on McZeal's shoulder or waist, controlling McZeal's movements. McZeal stated, "It appeared that he was trying to hold me while he was reaching for my gun." McZeal pushed Franco's left side away from his gun.

Franco again came forward, his left hand reaching toward McZeal's gun. Believing Franco was trying to take his gun and kill him, and fearing for his life, McZeal unholstered his duty weapon with his right hand, pointed his weapon at Franco in a close contact position,[6] and fired three rounds

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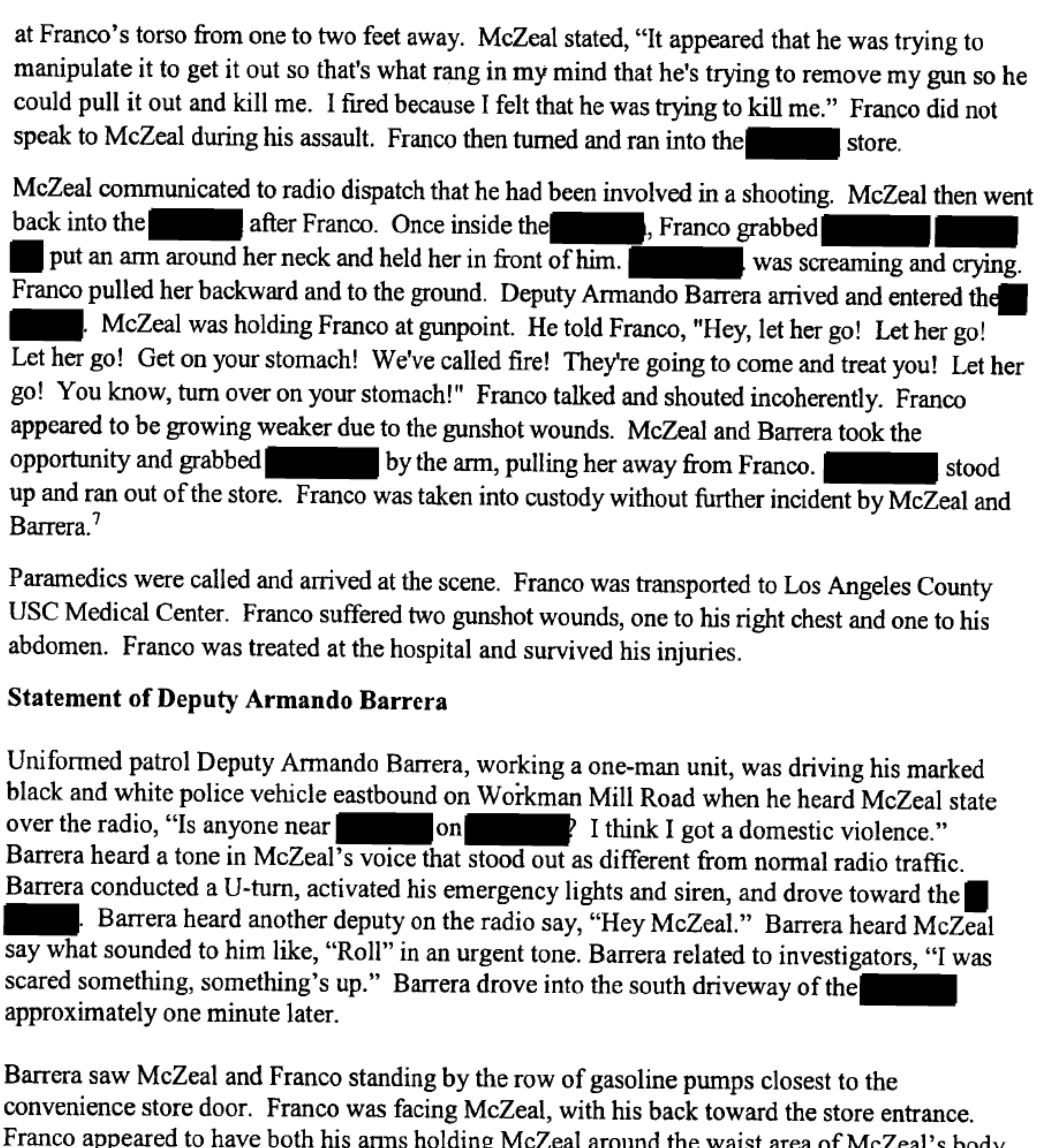
[2] Video surveillance cameras recorded both the interior and exterior gas pump areas in front of the [redacted] convenience store.

[3] A ziplock baggie containing methamphetamine, as well as two hypodermic syringes, were ultimately found in the vehicle Franco was driving.

[4] McZeal told investigators, "I got on my radio and I turned to L-Tac [a tactical radio channel] and I said, "Hey, you know what? I need a couple units over to the [redacted] on [redacted], you know, and the 605 freeway. I've got a gentleman over here, there was a car crash, and it appears like it might be some type of domestic violence situation, and he's acting a little weird.""

[5] McZeal is 5'8" and approximately 165 pounds. Franco is 6'00' and approximately 240 pounds.

[6] McZeal's right elbow was bent at the torso, and his gun was slightly in front of him at the right side of his waist, parallel to the ground, with the muzzle pointing toward Franco's front torso.



at Franco's torso from one to two feet away. McZeal stated, "It appeared that he was trying to manipulate it to get it out so that's what rang in my mind that he's trying to remove my gun so he could pull it out and kill me. I fired because I felt that he was trying to kill me." Franco did not speak to McZeal during his assault. Franco then turned and ran into the [redacted] store.

McZeal communicated to radio dispatch that he had been involved in a shooting. McZeal then went back into the [redacted] after Franco. Once inside the [redacted], Franco grabbed [redacted] [redacted] put an arm around her neck and held her in front of him. [redacted] was screaming and crying. Franco pulled her backward and to the ground. Deputy Armando Barrera arrived and entered the [redacted]. McZeal was holding Franco at gunpoint. He told Franco, "Hey, let her go! Let her go! Let her go! Get on your stomach! We've called fire! They're going to come and treat you! Let her go! You know, turn over on your stomach!" Franco talked and shouted incoherently. Franco appeared to be growing weaker due to the gunshot wounds. McZeal and Barrera took the opportunity and grabbed [redacted] by the arm, pulling her away from Franco. [redacted] stood up and ran out of the store. Franco was taken into custody without further incident by McZeal and Barrera.[7]

Paramedics were called and arrived at the scene. Franco was transported to Los Angeles County USC Medical Center. Franco suffered two gunshot wounds, one to his right chest and one to his abdomen. Franco was treated at the hospital and survived his injuries.

Statement of Deputy Armando Barrera

Uniformed patrol Deputy Armando Barrera, working a one-man unit, was driving his marked black and white police vehicle eastbound on Workman Mill Road when he heard McZeal state over the radio, "Is anyone near [redacted] on [redacted]? I think I got a domestic violence." Barrera heard a tone in McZeal's voice that stood out as different from normal radio traffic. Barrera conducted a U-turn, activated his emergency lights and siren, and drove toward the [redacted]. Barrera heard another deputy on the radio say, "Hey McZeal." Barrera heard McZeal say what sounded to him like, "Roll" in an urgent tone. Barrera related to investigators, "I was scared something, something's up." Barrera drove into the south driveway of the [redacted] approximately one minute later.

Barrera saw McZeal and Franco standing by the row of gasoline pumps closest to the convenience store door. Franco was facing McZeal, with his back toward the store entrance. Franco appeared to have both his arms holding McZeal around the waist area of McZeal's body, with his hands at McZeal's mid-back area in a bear hug. Barrera came to a stop, exited his patrol vehicle and hurried toward McZeal to help him. Barrera saw McZeal push Franco away from his body with both hands, then take a bladed stance with his gun (right) side farthest away from Franco.[8] McZeal was closer than arm's reach to Franco. McZeal held out his left arm, with the elbow slightly bent, toward Franco's body, trying to protect himself from Franco, who came toward McZeal as if for a fight. McZeal simultaneously drew his service weapon with his right

---

[7] LASD Deputy Ryan Fuqua responded to the interior of the [redacted] after [redacted] escaped from Franco. Fuqua only observed McZeal and Barrera handcuff Franco at gunpoint.

[8] McZeal turned his body slightly sideways in relation to Franco.

hand and pointed it from his hip area toward Franco.[9] Barrera heard two to three shots. Barrera could not hear if any words were being exchanged between McZeal and Franco. Franco backed away from McZeal, turned and ran through the front doors and into the [redacted] McZeal ran after Franco. Barrera ran after McZeal as he asked if McZeal was okay. McZeal yelled, "He tried to grab my gun! He tried to grab my gun!"

Statement of [redacted]

In the evening of October 30, 2018, [redacted] was taken by Franco against her will from Stockton and driven to Los Angeles by him in her vehicle.[10] On November 1, 2018, at approximately 2:20 a.m., Franco exited the 605 Freeway, perpendicularly crossed all of the lanes of traffic on Pellisier Road, jumped the curb and drove onto the [redacted] lot, first hitting a sign, and then a truck parked in the lot before coming to a stop. [redacted] immediately got out of the car, crying, and saw that "…[T]here was a cop [McZeal] there, already...I saw the cop come toward us and he said 'Hey, what's going on? What happened?'" [redacted] walked past McZeal, screaming hysterically, and yelled repeatedly at Franco, "I hate you! I can't believe you did this!" [redacted] went into the store without talking to McZeal, because she wanted to get away from Franco. She bought an iced drink, then walked back outside.

When [redacted] walked outside, she saw, "…Rashaad [Franco]…fighting the deputy, or wrestling, or whatever you want to call it but making contact with him…Rashaad was like…it looked like wrestling kind of but standing…in a struggle…and I yelled at Rashaad, like 'Rashaad!'…I felt like Rashaad's arms were trying to…like pin the deputy's arms…like Rashaad had him to where he couldn't move his arms so freely." [redacted] thought it looked like Franco was trying to grab McZeal's arms. "I saw Rashaad's arms around the deputy…what I saw wasn't correct or okay…." [redacted] yelled Franco's name because she wanted Franco to leave McZeal alone. Franco was moving toward McZeal and McZeal was backing away. [redacted] did not hear any sounds coming from either McZeal or Franco during the incident, "I feel like I tuned out." [redacted] looked down, then heard one shot and looked up. [redacted] heard Franco scream and jump in reaction; she then saw smoke and watched Franco run into the store. She sat down outside and to the side of the convenience store, and waited to be interviewed.

Franco told [redacted] that he had fought cops in the past, although she had never personally seen him interact with officers before this incident. [redacted] knew Franco to be violent toward her personally.

---

[9] Barrera's impression was that McZeal was so close to Franco that McZeal did not have sufficient space to bring his gun up to the normal shooting height.

[10] [redacted] and Franco were previously in a [redacted] ended the [redacted] when Franco stole her car, crashed it, then struck her in the face in Northern California. She reported his actions to the police. Based upon a conviction related to these actions, Franco was on formal probation with a valid criminal restraining order prohibiting contact with [redacted]

Statement of [redacted]

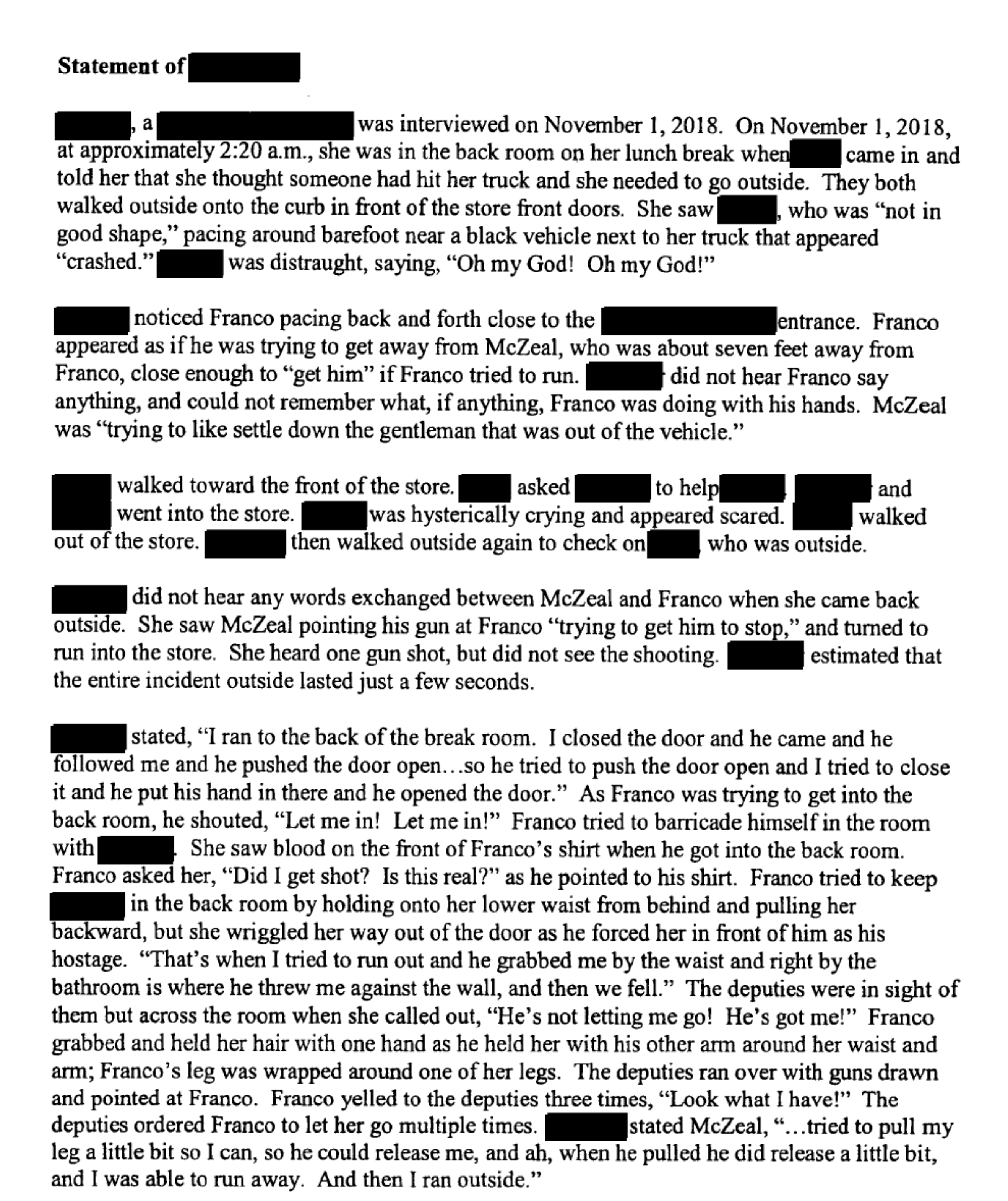
[redacted] was interviewed on November 1, 2018. On November 1, 2018, at approximately 2:20 a.m., McZeal was in the convenience store chatting with her. She heard tires screeching and a boom, then looked outside and saw a car jump the curb, hit a store sign, then hit [redacted] vehicle. McZeal ran outside. [redacted] went into the back room and told [redacted] somebody crashed into her car. They both ran out of the store's front entrance to check on [redacted] car. [redacted] saw [redacted], screaming hysterically and uncontrollably, run into the [redacted]. McZeal went toward Franco, who had just gotten out of the driver's side of the car. Franco did not have anything in his hands. [redacted] could not hear what was said due to [redacted] screaming, but it appeared to her that McZeal was trying to calm the driver down and find out what was going on. It seemed to [redacted] that Franco "…wasn't trying to be cooperative with him [McZeal]…. He [Franco] looked kind of like out of it, like a weird daze, I guess…."

Franco was backing away from McZeal at first. [redacted], [redacted] and [redacted] went inside the store. [redacted] intended to call her manager to report that the store sign had been struck by a car. [redacted] grabbed her phone, went back outside, and tried to call her manager. [redacted] saw, "The guy was like trying to confront the officer. And the officer, I heard him say, 'Back away,' or 'Back up,' or something, but he kept on….He [Franco] was getting really close…'cause the officer was backing up trying to get to his car and he [Franco] kept coming forward at him…[McZeal also told him] 'Calm down.'"

McZeal was calling for back-up, as he was physically backing slowly away from Franco, who had his hands extended out from his body. [redacted] called out to Franco, "Calm down." In response, Franco looked in her direction with a look she interpreted as, "Bitch, who the fuck are you to tell me to calm down?" Franco appeared "agitated, irritated, like bothered…like he gives no shits what's going to happen." Franco kept going forward "at the deputy aggressively…"

From that point everything happened so fast that she did not have a clear recollection of what she saw. [redacted] did not know who touched who first, but saw that McZeal and Franco had their hands on each other as they stood, struggling, between the gas pumps and the patrol car, moving closer to the pumps. There was a lot of movement over three to five seconds. [redacted] saw McZeal draw his gun as the two faced each other within two feet of each other. [redacted] ran toward the entrance door. As she reached the door, she heard one gunshot. She did not see the shooting.

[redacted] turned back toward McZeal and Franco, and saw Franco look at her, then run toward her as she stood inside near the door. [redacted] did not know where [redacted] or [redacted] were at the time. [redacted] tried to close the door, then ran into an aisle to avoid him. [redacted] turned to see where Franco was, and saw Franco, standing near the bathroom, look at her then take a couple of steps in her direction. She saw another deputy arrive at the front door. McZeal told her to step outside, which she did. Franco was by the bathroom door with his arm around [redacted] waist with her back against his torso in a bear hug. A deputy was telling Franco, "Let her go! Let her go!" [redacted] saw Franco push [redacted] down, and heard noise and commotion in the back, but could no longer see what was going on. Moments later [redacted] ran to her and they stayed outside for the duration of the incident.



Statement of [redacted]

[redacted], a [redacted] was interviewed on November 1, 2018. On November 1, 2018, at approximately 2:20 a.m., she was in the back room on her lunch break when [redacted] came in and told her that she thought someone had hit her truck and she needed to go outside. They both walked outside onto the curb in front of the store front doors. She saw [redacted], who was "not in good shape," pacing around barefoot near a black vehicle next to her truck that appeared "crashed." [redacted] was distraught, saying, "Oh my God! Oh my God!"

[redacted] noticed Franco pacing back and forth close to the [redacted] entrance. Franco appeared as if he was trying to get away from McZeal, who was about seven feet away from Franco, close enough to "get him" if Franco tried to run. [redacted] did not hear Franco say anything, and could not remember what, if anything, Franco was doing with his hands. McZeal was "trying to like settle down the gentleman that was out of the vehicle."

[redacted] walked toward the front of the store. [redacted] asked [redacted] to help [redacted]. [redacted] and [redacted] went into the store. [redacted] was hysterically crying and appeared scared. [redacted] walked out of the store. [redacted] then walked outside again to check on [redacted], who was outside.

[redacted] did not hear any words exchanged between McZeal and Franco when she came back outside. She saw McZeal pointing his gun at Franco "trying to get him to stop," and turned to run into the store. She heard one gun shot, but did not see the shooting. [redacted] estimated that the entire incident outside lasted just a few seconds.

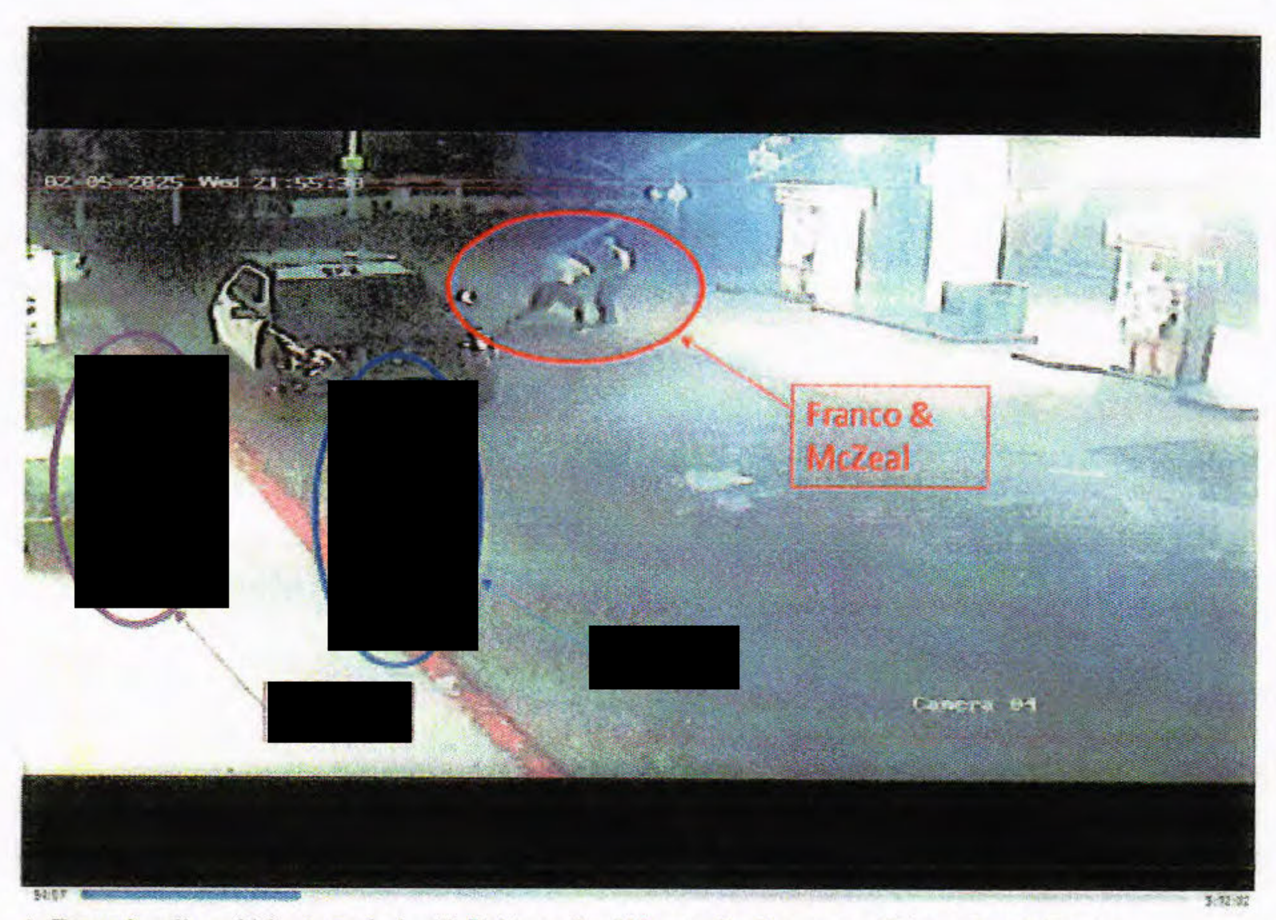
[redacted] stated, "I ran to the back of the break room. I closed the door and he came and he followed me and he pushed the door open…so he tried to push the door open and I tried to close it and he put his hand in there and he opened the door." As Franco was trying to get into the back room, he shouted, "Let me in! Let me in!" Franco tried to barricade himself in the room with [redacted]. She saw blood on the front of Franco's shirt when he got into the back room. Franco asked her, "Did I get shot? Is this real?" as he pointed to his shirt. Franco tried to keep [redacted] in the back room by holding onto her lower waist from behind and pulling her backward, but she wriggled her way out of the door as he forced her in front of him as his hostage. "That's when I tried to run out and he grabbed me by the waist and right by the bathroom is where he threw me against the wall, and then we fell." The deputies were in sight of them but across the room when she called out, "He's not letting me go! He's got me!" Franco grabbed and held her hair with one hand as he held her with his other arm around her waist and arm; Franco's leg was wrapped around one of her legs. The deputies ran over with guns drawn and pointed at Franco. Franco yelled to the deputies three times, "Look what I have!" The deputies ordered Franco to let her go multiple times. [redacted] stated McZeal, "…tried to pull my leg a little bit so I can, so he could release me, and ah, when he pulled he did release a little bit, and I was able to run away. And then I ran outside."

Video Evidence

McZeal, Barrera, and Fuqua were not wearing body-worn video cameras.

The [redacted] had multiple exterior and interior surveillance cameras, two of which captured portions of the interaction between McZeal and Franco, including the shooting, from different angles. Portions of the interactions between Franco and [redacted] and between Franco and McZeal inside the [redacted] are captured by several different cameras at different angles.

Camera 4: The camera is angled diagonally toward the gas pumps closest to the store's front entrance just out of view on the left, between the two potted plants.



As Barrera's police vehicle approached, with flashing red and blue overhead emergency lights activated, Franco aggressively charged at McZeal.



Franco pushed McZeal back and reached for McZeal's gun which was holstered on his right hip



Franco grabbed McZeal and placed him in a "bear hug."



Franco reached again for McZeal's firearm after McZeal broke free from Franco's bear hug.



McZeal held Franco back with his left arm, moved his right leg back, creating distance between his service weapon and Franco's left arm outstretched toward that weapon. McZeal's right arm is bent, his hand at the holster containing his service weapon.



Franco continued to reach toward McZeal's gun as McZeal unholstered it.



McZeal pointed his service weapon at Franco from a "close contact" position as Franco's left arm extended toward McZeal's gun.



McZeal fired his service weapon at Franco's torso utilizing a close contact position, which caused Franco to momentarily contract his left arm inward, away from McZeal's gun.



McZeal fired his service weapon again at Franco's torso utilizing a close contact position, which caused Franco to jump back and away from McZeal.

Camera 12: This camera faces forward and is directly in front of the left-most gas pump from the store entrance.



Franco's arm is again extended toward McZeal's gun as McZeal fires his service weapon a third time toward Franco's torso.

The time stamps on the video recordings from Cameras 4 and 12 show that McZeal fired his service weapon three times within a one-second span of time, from 9:55:43 p.m. to 9:55:44 p.m.[11]

Physical Evidence

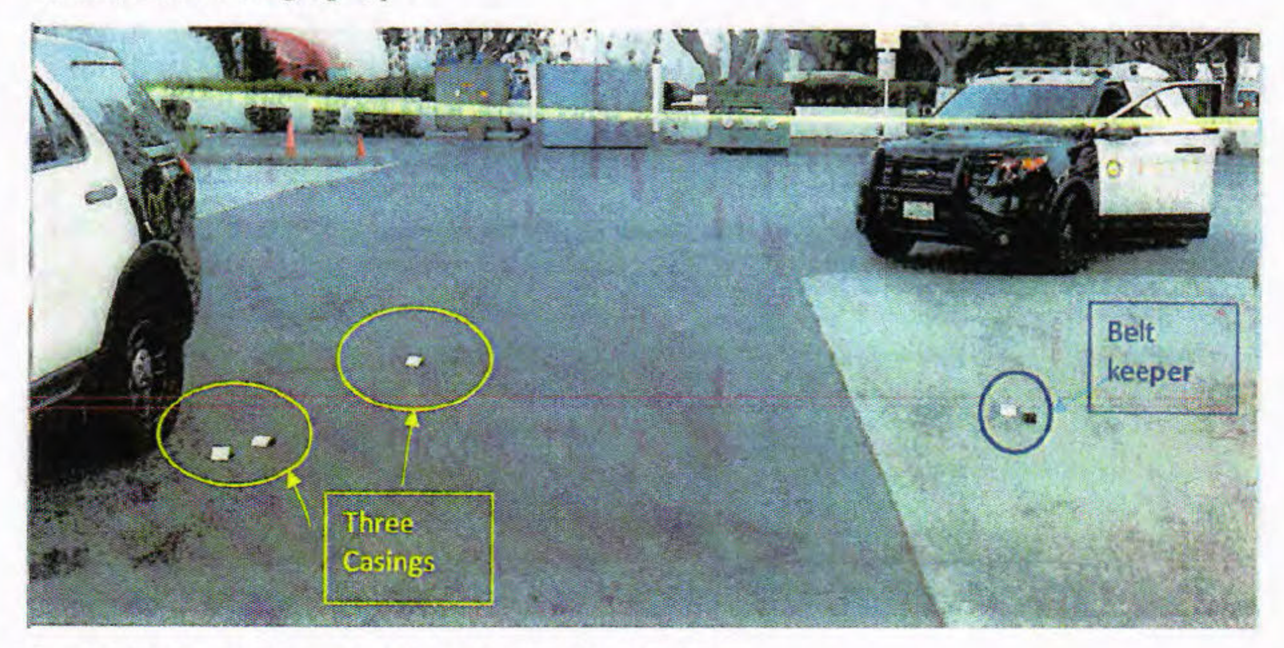
McZeal was armed with his department-approved Smith & Wesson, Model M&P, 9mm semiautomatic handgun. The maximum capacity for this handgun is 18 cartridges. After the shooting an examination of the handgun and magazine revealed that there were 15 cartridges.

Three expended 9mm cartridge casings were recovered from the ground between the gas pumps and McZeal's patrol vehicle, close to the vehicle's rear driver-side.

A photograph of McZeal's equipment belt taken after the shooting showed both of the two belt keepers at his rear were missing,[12] which is consistent with force applied to the belt housing McZeal's holstered service weapon.

[11] The time stamps do not reflect the actual time of the shooting, but do reflect the amount of time between the shots.
[12] A belt keeper is a rectangular piece of leather with a snap closure that is used by law enforcement officers to attach the outer equipment belt to an inner trouser belt, so that the belt remains in place. Law enforcement officers typically place four belt keepers around the equipment belt, two in the front of the body, two in the rear of the body, to secure the equipment on the entire belt. Surveillance video from inside the [redacted] prior to the shooting

One belt keeper was recovered from the ground between the gas pumps and McZeal's patrol vehicle, closer to the gas pumps.



Crime scene photo of three expended cartridge casings and one belt keeper.

Charges Filed Against Franco

Franco was charged in case number KA119664 with felony violations of Penal Code sections 236, false imprisonment by violence of [redacted] 245(c), assault upon a peace officer with a deadly weapon and with force likely to cause great bodily injury and death; 210.5, false imprisonment of a hostage; and 148(d), resisting, delaying or obstructing an officer by attempting to remove a firearm from the person or immediate presence of McZeal. The case is set for a preliminary hearing setting in Department F of Pomona Superior Court on March 24, 2020.

LEGAL ANALYSIS

A police officer may use reasonable force to effect an arrest, prevent escape, or overcome resistance of a person the officer believes has committed a crime. Penal Code section 835a. An officer "may use all the force that appears to him to be necessary to overcome all resistance, even to the taking of life; [an officer is justified in taking a life if] the resistance [is] such as appears to the officer likely to inflict great bodily injury upon himself or those acting with him." People v. Mehserle (2012) 206 Cal.App.4th 1125, 1146.

According to California law, a person acted in lawful self-defense or defense of another if (1) he reasonably believed that he or someone else was in imminent danger of being killed or suffering great bodily injury and (2) he reasonably believed that the immediate use of deadly force was necessary to defend against that danger. CALCRIM No. 505.

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recorded McZeal's equipment belt and the locations of the belt keepers holding it in place. Two were in the rear, on either side of McZeal's spine.

In evaluating whether a police officer's use of deadly force was reasonable in a specific situation, it is helpful to draw guidance from the objective standard of reasonableness adopted in civil actions alleging Fourth Amendment violations. "The 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than the 20/20 vision of hindsight… The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation." Graham v. Connor (1989) 490 U.S. 386, 396-397.

Actual danger is not necessary to justify the use of deadly force in self-defense. If one is confronted by the appearance of danger which one believes, and a reasonable person in the same position would believe, would result in death or great bodily injury, one may act upon those circumstances. The right of self-defense is the same whether the danger is real or merely apparent. People v. Toledo (1948) 85 Cal.App.2d 577.

California law permits any person to use deadly force in self-defense or in the defense of others if he actually and reasonably believed that he or others were in imminent danger of great bodily injury or death. CALCRIM No. 3470; *see also* People v. Randle (2005) 35 Cal.4th 987, 994 (overruled on another ground in People v. Chun (2009) 45 Cal.4th 1172, 1201); People v. Humphrey (1996) 13 Cal.4th 1073, 1082. In protecting himself or another, a person may use all the force which he believes reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent the injury which appears to be imminent. CALCRIM No. 3470. If the person's beliefs were reasonable, the danger does not need to have actually existed. Id.

In the instant matter, Franco repeatedly and aggressively charged McZeal and attempted to remove and take McZeal's service weapon from McZeal's holster. Given Franco's aggressive actions McZeal reasonably believed that, if Franco was successful, Franco would then use McZeal's gun to shoot and kill McZeal. The fact that McZeal's rear belt keepers unsnapped and fell during the struggle, corroborates that Franco was attempting to remove or take McZeal's duty weapon. McZeal, forced to make a split-second decision and reasonably fearing for his life, fired three shots from his service weapon.

CONCLUSION

We find that Deputy Clarence McZeal acted lawfully in self-defense when he used deadly force against Rashaad Franco. We are closing our file and will take no further action in this matter.